Approved Code No. 105—Supplement No. 6 Registry No. 1404—51

NATIONAL RECOVERY ADMINISTRATION

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

OIL FILTER MANUFACTURING INDUSTRY

(A Product Group of the Automotive Parts and Equipment Manufacturing Industry)

AS APPROVED ON OCTOBER 26, 1934

WE DO OUR PART

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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934

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Approved Code No. 105—Supplement No. 6

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

OIL FILTER MANUFACTURING INDUSTRY

As Approved on October 26, 1934

ORDER

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE OIL FILTER MANUFACTURING INDUSTRY

A PRODUCT GROUP OF THE AUTOMOTIVE PARTS AND EQUIPMENT MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Oil Filter Manufacturing Product Group of the Automotive Parts and Equipment Manufacturing Industry, a supplemental Code to the Basic Code of the Automotive Parts and Equipment Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859 and otherwise; does hereby incorporate by reference said annexed report and does find that said Code complies in all respects with the pertinent provisions and will promote the policies and purposes of said Title of said Act; and does hereby order that said Code of Fair Competition be and it is hereby approved, provided, however, that the provisions of Article IV, paragraph (8), entitled Special Brands, be and they hereby are stayed pending its further order.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer.*

Approval recommended:

BARTON W. MURRAY,
Division Administrator.

WASHINGTON, D. C.,
October 26, 1934.

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REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: The Supplement to the Code of Fair Competition for the Automotive Parts and Manufacturing Industry covering Fair Trade Practices for the Oil Filter Manufacturing Product Group, a Product Group of the said Industry, was submitted to the Administration on March 22, 1934, by the Code Authority Committee of Automotive Parts and Equipment Manufacturing Industry, representing approximately 90% of the total volume of sales and 50% of the members of the Industry.

The Hearing was conducted in Washington on June 25, 1934, and the Supplement was revised July 20, 1934, and is submitted in its present form for approval. Every person who requested an appearance was properly heard in accordance with the statutory and regulatory requirements.

While the Product Group is nation-wide in character, it has not experienced any increase in the number of establishments during the past few years.

ARTICLE I states the purpose of the Supplementary Code.

ARTICLE II accurately defines specific terms employed in the Supplementary Code.

ARTICLE III establishes an Administrative Committee consisting of five (5) members elected in accordance with the voting provisions provided in the By-Laws of Automotive Parts and Equipment Manufacturers, Inc., and one nonvoting member, to be appointed by the National Industrial Recovery Board. The wage and hour provisions of the Basic Code are adopted. It also provides machinery for obtaining statistics and the administration of the Code.

ARTICLE IV sets forth the fair trade practices of this Supplementary Code, which has been especially designed to effect fair competition in this Product Group of the Industry.

ARTICLE V provides against monopolies and monopolistic practices and provides for the submission of supplementary provisions to this Supplementary Code or modifications thereof, and contains the mandatory provisions contained in Section 10 (b) of Title I of the Act, and states the effective date of the Supplementary Code shall mean the tenth day after it has been approved.

FINDINGS

The Deputy Administrator in his final report to the National Industrial Recovery Board on said Supplemental Code having found as herein set forth and on the basis of all the proceedings in this matter:

The National Industrial Recovery Board finds that:

(a) Said Supplemental Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Product Group normally employs not more than 50,000 employees; and is not classified by the National Industrial Recovery Board as a major industry.

(c) The Supplementary Code as approved, complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant Product Group is an industrial association, truly representative of the aforesaid Industry; and that said Product Group imposes no inequitable restrictions on admission to membership therein.

(d) The Supplementary Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Supplementary Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Supplementary Code.

For these reasons, therefore, the National Industrial Recovery Board has approved this Supplementary Code.

For the National Industrial Recovery Board:

G. A. Lynch,
Administrative Officer.

October 26, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE OIL FILTER MANUFACTURING INDUSTRY

(A Product Group of the Automotive Parts and Equipment Manufacturing Industry)

Article I—Purpose

Pursuant to the provisions of Article II of the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry, duly approved by the President on November 8, 1933, the following provisions covering fair trade practices and the administration thereof are hereby established as the standards of Fair Competition for the Oil Filter Manufacturing Product Group, which has been organized as an administrative unit under the Original Equipment and Replacement Parts Divisions of the Automotive Parts and Equipment Manufacturing Industry, and shall be binding upon every member of said Product Group.

Article II—Definitions

The term "Product Group" as used herein is defined to mean the production and/or manufacture, assembly, importation, reconditioning and/or rebuilding for sale of lubricating oil filters, excepting, however, the production and/or manufacture of such products when produced or manufactured by a manufacturer for use exclusively in his own finished product.

The term "Member" or "Member of the Product Group" as used herein includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the production and/or manufacture, assembly, importation, reconditioning and/or rebuilding for sale or the sale as a manufacturer, of the products of the Product Group (hereinafter termed "Products"), either as an employer or on his or its own behalf.

The term "Group" is defined to mean the Oil Filter Manufacturing Group, a "Product Group", as herein defined, at present having its headquarters' office in Detroit, Michigan.

The term "Basic Code" as used herein is defined to mean the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry, as approved by the President on November 8, 1933, and as amended.

The term "Code Authority" as used herein is defined to mean the Code Authority designated in the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry.

Article III—Administration

(1) (a) The Administrative Committee of the Group shall consist of Five (5) members elected in accordance with the voting provisions provided in the By-Laws of Automotive Parts and Equipment Manufacturers, Inc.

(b) In addition to the membership as above provided, there may be one additional member, without vote, to be appointed by the National Industrial Recovery Board, to serve without expense to the Product Group for such term as he may specify.

Not more than one (1) representative of a member of its affiliate or subsidiary shall be elected to serve on the Administrative Committee at the same time.

The Administrative Committee shall be elected at the Annual Meeting of the Group. The first Annual Meeting of the Group was held at Detroit, Michigan, February 22, 1934, and shall be held annually thereafter in the month of January at such place and time as shall be determined by the Administrative Committee.

Immediately following the annual meeting the Administrative Committee shall meet and elect a chairman, a vice chairman, and a secretary from among their duly elected members.

The Chairman of the Administrative Committee shall have the power to call meetings of the Committee and shall be required to do so on the written request of two members of the Committee and within ten days from receipt of such requests.

The Administrative Committee shall have the power to call such meetings of the Group as in their judgment are required and shall be required to call such Group meetings within two weeks of receipt of written request for such meetings from five (5) members of the Group who have qualified as outlined in Article III, paragraph 3 (b).

(2) The Administrative Committee of the Group is hereby designated to assist the Code Authority and the National Industrial Recovery Board in the administration of the fair trade practice provisions hereinafter set forth and the provisions of the Basic Code, to which these fair trade practices are a supplement.

(3) (a) It being found necessary, in order to support the administration of this Supplement and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Administrative Committee is authorized, subject to the approval of the National Industrial Recovery Board:

(1) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Supplement;

(2) To submit to the National Industrial Recovery Board for approval, subject to such notice and opportunity to be heard as they may deem necessary, (a) an itemized budget of its estimated expenses for the foregoing purposes, and (b) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Product Group;

(3) After such budget and basis of contribution have been approved by the National Industrial Recovery Board, to determine

and obtain equitable contribution as above set forth by all members of the Product Group, and to that end, if necessary, to institute legal proceedings therefore in its own name.

(b) Each member of the Product Group shall pay his or its equitable contribution to the expenses of the maintenance of the Administrative Committee, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the National Industrial Recovery Board. Only members of this Product Group complying with the Supplement and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such contributions, shall be entitled to participate in the selection of members of the Administrative Committee or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(c) The Administrative Committee shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget, and shall in no event exceed the total amount contained in the approved budget, except upon approval of the National Industrial Recovery Board; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the National Industrial Recovery Board shall have so approved.

(4) (a) The Administrative Committee shall, subject to the disapproval of or modification by the Code Authority and the National Industrial Recovery Board, have the power to adopt by-laws and rules and regulations for its procedure and to obtain from members, through an impartial agency, such information and reports as are required for the administration and enforcement of this Supplement; to cooperate with the National Industrial Recovery Board under such rules and regulations as may be prescribed by them in regulating the use of any N. R. A. insignia and in hearing and adjusting complaints; and to initiate, consider, and recommend to the Code Authority further fair trade practice provisions to govern the members of this Product Group.

(b) If the National Industrial Recovery Board shall determine that any action of the Code Authority and/or the Administrative Committee or any agency thereof may be unfair or unjust or contrary to the public interest, the National Industrial Recovery Board may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority and/or the Administrative Committee or any agency thereof pending final action which shall not be effective unless the National Industrial Recovery Board approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Administrative Committee shall (1) impose no inequitable restrictions on membership, and (2) submit to the National Industrial Recovery Board true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other informa-

tion as to membership, organization, and activities as the National Industrial Recovery Board may deem necessary to effectuate the purposes of the Act.

(d) In order that the Administrative Committee shall at all times be truly representative of the Product Group and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such hearings as they may deem proper; and thereafter if they shall find that the Administrative Committee is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Administrative Committee.

(5) All members of this Product Group shall be bound by the provisions of the Basic Code. For this purpose, the wage and hour provisions of the Basic Code are hereby declared to be a part of this Supplement. In case of any conflict between the provisions of this Supplement and the provisions of the Basic Code the provisions of the latter shall govern. As required by Section 7 (a) of Title I of the Act, the following provision is contained in this Supplement: (a) Every code of fair competition agreement and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(6) The Administrative Committee shall cause to be formulated methods of cost finding and accounting capable of use by all members of the Product Group, and shall submit such methods to the National Industrial Recovery Board for review. If approved by the National Industrial Recovery Board, full information concerning such methods shall be made available to all members of the Product Group. Thereafter, each member of the Product Group shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Administrative Committee, any agent thereof, or any member of the Product Group to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices.

(7) The Administrative Committee shall be empowered to obtain from members of the industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the industry subject to this Code shall furnish such statistical information as the National Industrial Recovery Board may deem necessary for the purposes recited in Section 3 (a) of the Act to such

Federal and State agencies as it may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other member of the industry or any other party except to such other Governmental agencies as may be directed by the National Industrial Recovery Board.

Article IV—Trade Practices

In addition to the provisions of Section C of the Article VI of the Basic Code, the following described acts shall constitute unfair practices:

(1) *Costs and Price Cutting.*—(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the Product Group or of any other industry or the customers of either may at any time complain to the Administrative Committee that any filed and/or offered price constitutes unfair competition as destructive price cutting, imperiling small enterprises or tending toward monopoly or the impairment of code wages and working conditions. The Administrative Committee shall within five (5) days afford an opportunity to the member filing and/or offering the price to answer such complaint and shall within fourteen (14) days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of N.R.A. which shall render a report and recommendation thereon to the National Industrial Recovery Board.

(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given product sale below the stated minimum price of such product, in violation of the provisions of paragraph (e) hereof, is forbidden.

(d) If the National Industrial Recovery Board, after investigation shall at any time find both (1) that an emergency has arisen within the Product Group adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product of the Product Group for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Administrative Committee may cause an impartial agency to investigate costs and to recommend to the National Industrial Recovery Board a determination of the stated minimum price of the product affected by the emergency and thereupon the National Industrial Recovery Board may proceed to determine such stated minimum price.

(e) When the National Industrial Recovery Board shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, it shall publish such price.

Thereafter, during such stated period, no member of the Product Group shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Administrative Committee may recommend review or reconsideration or the National Industrial Recovery Board may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

(2) *Commercial Bribery.*—To give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as herein defined.

(3) *Misbranding and Mislabelling.*—False branding or labelling or failure to brand or label products of the industry for the purpose or with the effect of misleading or deceiving purchasers or consumers with respect to the quality, grade, effectiveness, origin, method of operation, character, or substance of the products purchased.

(4) *Imitation of Trade Marks.*—Imitation of a competitor's trade mark, marking or trade name, with the purpose or effect of misleading or deceiving any purchaser or prospective purchaser.

(5) *Inaccurate Advertising.*—To publish advertising (whether printed, radio, display, or of any other nature), which is misleading or inaccurate in any material particular, or in any material way to misrepresent any products or credit terms, values, policies, services, or the nature or form of the business conducted.

(6) *Rebuilt or Reconditioned Products.*—To rebuild or recondition, to disassemble or reassemble with either the same or different parts, sandblast or chemically treat the metal container, paint, lacquer or varnish the metal parts, or otherwise clean or refurnish oil filters with the purpose or intent of selling or offering the same for sale without:

(a) Completely removing therefrom all trade marks, trade names, style marks, size marks and/or brand marks of the original manufacturer, and

(b) Painting the words "Rebuilt" or "Used" in not less than ½" block letters, in a contrasting color, in two places approximately opposite on the body of the oil filter, and

(c) Also packing such oil filters in a plain white, gray or buff carton with only the name and address of the rebuilder or reconditioner; and the words "Rebuilt Oil Filter" or "Used Oil Filter" printed on each side thereof in not less than ½" block letters; and printing on each end of the carton the size designation and the word "Rebuilt" or "Used" in not less than ¼" block letters; and/or to sell or offer for sale oil filters which have been rebuilt or reconditioned unless the same are marked and packed as above provided; and/or to advertise or otherwise represent, sell or offer to sell any rebuilt or reconditioned oil filters as the product of or

under the trade mark, trade name or brand mark of the original manufacturer.

(7) *Replacing Competitor's Stock.*—To liquidate, purchase, or accept another member's product from any buyer.

(8) *Special Brands.*—To sell or offer for sale special brand oil filters manufactured after the effective date of this Supplement, which are not so marked and/or packaged as to clearly indicate to the consumer, the producer or manufacturer of same.[1]

(9) *Export.*—The provisions of this Supplement, with the exception of Article IV, paragraph (1), are to apply to direct export sales and to sales in course of export (i. e., sales destined ultimately for export) and to sales of materials used in the manufacture of products for export.

Article V—General

(1) No provision of this Supplement shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

(2) Such of the provisions of this Supplement as are not required to be included herein by the Act may, with the approval of the National Industrial Recovery Board, be modified or eliminated upon proposal by the Product Group or any member thereof if it appear that the public needs are not being served thereby and as changes in circumstances or experience may indicate.

(3) It is contemplated that from time to time supplementary provisions of this Supplement or modifications thereof will, after approval by the Product Group, be submitted by the Administrative Committee through the Code Authority for approval to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the purposes of the Act. Upon approval by the National Industrial Recovery Board after such notice and hearing as he may prescribe, such supplementary provisions or modifications shall become binding as a part of this Supplement.

(4) As required by Section 10 (b) of Title I of the Act, the following provision is contained in this Supplement: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under said Title.

(5) By assenting to this Supplemental Code no member of this Product Group shall be held to have waived any of his constitutional rights.

(6) Violation by any member of this Product Group of any provision of this Supplement is an act of unfair competition, and the offender shall be subject to the penalties imposed by the Act.

(7) The effective date of this Supplement shall be the tenth day after it shall have been approved by the President.

Approved Code No. 105—Supplement No. 6.
Registry No. 1404–51.

[1] See paragraph 2 of order approving this Code.

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